

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.

4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402 USA
Telephone: (612) 349-5740
Toll Free: 1-800-331-4537
Facsimile: (612) 349-9266

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DATE: July 13, 2005

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YOUR REF.:

OUR REF.: 3708.01-LIT-01

FROM: Aaron W. Davis, Esq.

PHONE #: (612) 349-5754

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Aaron W. Davis
(612) 349-5754
davis@ptsllaw.com

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VIA FACSIMILE & U.S. MAIL

Matthew Stavish, Esq.
LINIAK, BERENATO & WHITE
Suite 240
6550 Rock Spring Drive
Bethesda, MD 20817

RE: **Mark R. Allen's Petitions to Accept Unintentionally Delayed Claim for the Benefit of a Prior Application and Certificate of Correction to Correct 35 U.S.C. § 120 Priority for U.S. Patent No. 6,461,019 and U.S. Patent No. 6,830,358**
Our File No. 3708.01-LIT-01

Dear Mr. Stavish:

As you know, I represent Seasonal Specialties, LLC in the pending patent litigation brought by Fiber Optic Designs, Inc ("FOD") in the District of Minnesota. I am writing you concerning the Petitions to Accept Unintentionally Delayed Claim for the Benefit of a Prior Application and Certificate of Correction to Correct 35 U.S.C. § 120 Priority for U.S. Patent No. 6,461,019 and U.S. Patent No. 6,830,358, two patents allegedly owned by FOD. Because of a break in the chain of priority, the '358 patent, which is being asserted against my client in the aforementioned lawsuit, is very likely invalid under 35 U.S.C. §§ 102(a) and (b) and is unenforceable due to inequitable conduct. These and other issues have been the subject of the pending litigation and are material to the Patent Office's consideration of the Petitions, as they concern your claim of "unintentional delay," as well as patentability, prior art, invalidity, inequitable conduct, and the contradictory position taken by FOD before the District Court that the Petitions are "unnecessary."

Accordingly, as part of your ongoing duty of candor under 37 C.F.R. § 1.56, as well as pursuant to the directives of MPEP § 2001.06(c), we believe you are required to immediately bring to the attention of the Patent Office, and in particular the Examiner(s) in charge of reviewing the aforementioned pending Petitions, copies of the following pleadings, documents, motions, and orders from the pending litigation in the District of Minnesota, Civil No. 05-660 RHK/JSM (D. Minn.):

1. Defendant's Amended Answer and Amended Counterclaims;
2. Defendant's Memorandum of Law in Opposition to Plaintiffs' Motion for a Preliminary Injunction;

4800 IDS CENTER • 80 SOUTH 8TH STREET • MINNEAPOLIS, MINNESOTA 55402-2100
800-331-4537 612-349-5740 FAX: 612-349-9266 www.ptsllaw.com

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Matthew Stavish, Esq.

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3. Declaration of Aaron W. Davis and all of the exhibits thereto;
4. Plaintiffs' Reply Memorandum of Law in Support of Their Motion for Preliminary Injunction and all of the declarations and exhibits filed therewith;
5. The Court's Order dated June 15, 2005;
6. Defendant's Sur-Response Memorandum of Law in Opposition to Plaintiffs' Motion for a Preliminary Injunction;
7. Second Declaration of Aaron W. Davis and all of the exhibits thereto;
8. Transcript of the June 22, 2005 Hearing;
9. The Court's Memorandum Opinion and Order dated July 1, 2005;
10. Answers to Defendant's First Set of Interrogatories to Plaintiffs; and
11. This letter dated July 13, 2005.

If any similar invalidity, prior art, inequitable conduct, or break in priority arguments or positions have been made or forwarded in the Colorado action, Civil Action No. 04-2689 (D. Colo.), those documents should be immediately disclosed to the Patent Office as well.

Yours very truly,

PATTERSON, THUENTE,
SKAAR & CHRISTENSEN, P.A.



Aaron W. Davis

AWD/dsv

cc: Gregory S. Tamkin, Esq. (via facsimile & U.S. Mail)
F. Matthew Ralph, Esq. (via facsimile & U.S. Mail)
Mail Stop Petitions – Commissioner for Patents (via facsimile & U.S. Mail)